

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

WILLIAM MOUNTFORD,

Defendant.

2:06-CR-104 JCM (LRL)

ORDER

Presently before the court is defendant William Mountford's motion to vacate or amend sentence pursuant to 28 U.S.C. § 2255. (Doc. #40). The government has not responded.

The United States District Court for the Southern District of New York imposed the defendant's original sentence, which included credit for time served and four years supervised release. (Doc. #7). The defendant then relocated to Las Vegas, where he engaged in "acts of noncompliance" with the terms of his supervision. (Doc. #1). Accordingly, this court accepted jurisdiction to address the issues locally. (Doc. #2).

Following further acts of noncompliance with the terms of his supervision, this court issued judgment on revocation of probation/supervised release (doc. #39), which included 6 months imprisonment and 30 months supervised release. (Doc. #21). The defendant now contests this judgment pursuant to 28 U.S.C. § 2255. (Doc. #40).

Section 2255 provides that "a prisoner in custody under sentence of a court . . . may move the court which imposed the sentence to vacate, set aside or correct the sentence" under certain conditions. 28 U.S.C. § 2255(a); *see Grady v. U.S.*, 929 F.2d 468, 470 (9th Cir. 1991) (holding that

1 § 2255 is not an appropriate remedy where the prisoner is challenging a probation determination that
2 does not involve the sentencing court). Furthermore, the advisory committee note to rule 1 of the
3 rules governing § 2255 states: “challenge[s] of decisions such as the revocation of probation or
4 parole are not appropriately dealt with under 28 U.S.C. § 2255, which is a continuation of the
5 original criminal action.”

6 Accordingly, this court does not have authority under § 2255 because it is not “the court
7 which imposed the sentence.” 28 U.S.C. § 2255(a). Furthermore, this court agrees with the guidance
8 in the advisory note to rule 1 and finds that a challenge to revocation of the defendant’s probation
9 is not appropriately dealt with under 28 U.S.C. § 2255.

10 Accordingly,

11 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that defendant William
12 Mountford’s motion to vacate or amend sentence pursuant to 28 U.S.C. § 2255 (doc. #40) is hereby
13 DENIED.

14 DATED September 23, 2010.

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17 UNITED STATES DISTRICT JUDGE
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